MEMORANDUM

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FROM: JULIE-MARIE BICKFORD

SUBJECT: BUDGET FEEDBACK EXERCISE

DATE: JUNE 20, 2022 VERSION

CC: CALEB ELWELL

For years now the Maine Milk Commission's operating budget has seen its operating funds balance dwindle down to record low levels. Not only does that account cover the operating expenses for the MMC – everything from personnel to office purchases – but the funds are used on a yearly basis to fund one of the three required studies for the Commission, which are required by statute.

Due to the manner in which the Commission is funded, any reductions in milk sales, in-state processing capacity, or on-farm milk production results in declining revenues for the Commission. Several factors have occurred that bring this concern to the forefront.

- Consumer eating and buying habits have seen a steady decline in both the consumption and sales of fluid milk, especially over the last 10-20+ years.
- In response to the economic dynamics of the pandemic, the regions two largest cooperatives in the instituted quota or "base excess"-styled programs as a way to tighten milk supplies in response to the dramatic shifts in dairy sales trends. While those constraints have lessened, supply management methods are accepted tools to deal with fluctuations in dairy markets and are currently enacted independently from any regulatory system. This has brought into focus the overall financial susceptibility of the Commission to changes in increasingly volatile dairy markets.

Historically, the Commission had buffered the impact of the gradual impact of this loss in revenue by streamlining its operations, reducing staff and overhead expenses, and relying on an accumulated surplus. The Commission staff has taken several internal measures to curb costs and streamline and reduce ongoing expenses. However, these actions are just "nibbling around the edge" of a larger fiscal challenge.

The following options have been laid out for discussion purposes for the Commission's consideration and guidance, and for constructive feedback from the public and the regulated community of Maine's dairy industry to assess the possible positive and negative impacts of pursuing implementation of any of these options as a means of addressing the Commission's financial position – both in the short-term and for the long-range future.

- The Commission staff maintain the management and operation of the Maine Milk Pool and the Maine Dairy Stabilization "Tier" Program. Both of these functions are not part of the Commission's responsibilities, but are requirements of the Department of Agriculture, Conservation & Forestry. Because of the complexity of the programs and their interaction with dairy pricing matters, the Commission staff have been assigned the responsibility for managing the Milk Pool and the Tier Program, and are only paid/reimbursed for handling the Milk Pool by the Department at a rate of 1-cent/cwt.

Option 1: Could the amount for managing the Milk Pool be renegotiated with the state? This amount has not changed since it was originally set up between the Commission & the State. However, it is important to note that this source comes directly from the funds in the Pool – not the Department – so unless the source is re-negotiated, any increase in reimbursement would lower the amount available in the Pool to be returned to Maine producers.

Option 2: Could the Commission be reimbursed for management of the Tier Program? Considering the time requirement that this program requires of staff every month – along with additional time dealing with the Legislature, Office of Fiscal & Program Review/Budget Office/ Revenue Forecasting Commission, this program has a significant impact by imposing on the full execution of the Commission's duties and responsibilities, some stream of funding reimbursement from the Department would be more reflective of actual day-to-day requirements of the Commission staff. And considering that the Commission used to have a staff of close to a dozen individuals, this may be an important discussion to have with the Administration/Department in the broader context of completing statutory responsibilities.

- Currently the cost of an annual milk license is $1/year. That is the amount set when the Commission was formed in 1935. Today, that doesn't even cover the cost of mailing either the application or the license, and definitely is not adequate to cover the staff time involved in handling the initial licensing as well as reviewing and recording the monthly sales and production reports that are required to be submitted by licensees.

Option 3: Should the Commission pursue efforts to increase the annual cost of a milk dealers license in Maine? What would be a more appropriate fee in 2022?

- The primary revenue source for the Commission is a 5-cents per hundredweight (cwt) assessment "based on quantity of milk purchased or produced in any market area, or purchased or produced in an uncontrolled area and sold in any market area. Two and one-half cents per hundredweight may be deducted by dealers from amounts paid by them to producers of such milk"[1]. This amount has been adjusted at least once more than 20+ years ago.

Option 4: Should this amount be increased? Should the increase remain identical for both processors and producers? Should another fee structure be considered?

- The Dealer Margin study and the Retailer Margin study are used to make concrete and consistent adjustments to the pricing formulas that include a return on investment. The Producer Cost of Production study neither provides a firm number to be included in pricing formulas, nor is there any mechanism to include any return on investment calculation. In addition, the Cost of Production studies are used as the basis for the Maine Dairy Stabilization "Tier" Program, which has resulted in significant MMC staff time to work with both the Department and the Legislature in order to finalize our rulemaking process for a Legislative purpose.

Option 5: Should the Department of ACF or the Legislature or both be asked to financially underwrite the costs of doing the Cost of Production study and reimburse the Commission for the

[1] MRSA Title 7 Chapter 603 Section 2956, Sub-section 3

staff time spent on the non-Commission related activities associated with the study? Should this be considered in conjunction with the discussions presented in Option 2?

- The Commission has historically maintained a non-lapsing surplus balance that is used to cover expenses like the various cost studies and hiring of professional staff to aid the Commission's work (ie computer software experts or financial auditors). Due to the nature of the non-lapsing account that is separate from the budget lines that impact the vast majority of state government, the balance has been used as a flexible spending account for everything from farmer relief payments, to donations, to underwriting various ag functions, or assisting with 1-time expenditures.

  Option 6: Should the Commission develop a policy to be applied as a guiding document to set parameters on what qualifies as an appropriate use of non-lapsing MMC funds?

- Currently the Milk Commission only has a single staff line in the budget for the Executive Director. While the MMC pays 50% of the personnel costs of the Office Associate II, the other 50% is paid by the Maine Harness Racing Commission, who has the position included in its head count in the budget. However, the Executive Director does assume the function of managing the employee and has responsibility over approving their bi-weekly time sheet.
  The MMC also pays the equivalent of 50% of the personnel costs of the Resource Administrator, who also splits responsibilities between the Harness Racing Commission, the Milk Commission, and the Department of ACF. This position is not included in the head count of either commission, but is part of a pool of Resource Administrators that are under the DACF Commissioner's Office. The Commissions are "billed" by the Department to cover the costs of the position, unlike the manner in which the Commission is billed on an hourly basis by the Attorney General's Office for any required staff time from our Assistant Attorney General spent working on behalf of the Commission. The Resource Administrator does not have any direct accountability to the Commission as a standard employee, though the position is an integral part of the operation of the Commission. This position is paid using a CAP formula in which the Department sets as part of the biennial budget process.

  Option 7: Should the Milk Commission undertake an assessment of all statutory and rulemaking responsibilities, in addition to those performed by the Commission on behalf of the Department, to determine if current staffing levels and dynamics are appropriate to execute the Commission's full slate of duties? Should the MMC look at restructuring the relationship between the Milk Commission, the Harness Racing Commission, and the Department to adjust the manner in which staff positions are aligned and funded? Should the Commission look at having an additional head-count line set under our budget to have more direct accountability and the ability to make adjustments to both responsibilities and financial liabilities related to those who are conducting work for the Commission? (This effort would require significant research and collaborative discussion with those entities with whom the Commission currently share financial and operational oversight over these positions.)

This is by no means an all-inclusive list and there may be additional items that should be discussed and reviewed as part of this exercise. This is a very dispassionate analysis based on a review of the Commission's financial records. It should not be taken in any way to imply any position towards any individual, entity, or program. This document is just a starting point for a series of conversations and in-depth research that should be undertaken to try to map out a plan to keep the Commission running for the next 87 years.